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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOSHIKI MORI, MINORU KURIKI, YASUYUKI JINBO,
KIYOTO NAGANUMA and MASAO AIHARA

Appeal 2009-001394
Application 09/487,265
Technology Center 3600

Oral Hearing Held: May 21, 2009

Before MURRIEL E. CRAWFORD and JOSEPH A. FISCHETTI and
BIBHU R. Mohanty, *Administrative Patent Judges*.

ON BEHALF OF THE APPELLANT.

J. RANDALL BECKERS, ESQ.
Staas & Halsey, LLP
Intellectual Property Attorneys
1201 New York Avenue, N.W., Suite 700
Washington, D.C. 20005
(202) 434-1500

35 The above-entitled matter came on for hearing on Thursday, May 21, 2009,
36 commencing at 10:08 a.m., at the U.S. Patent and Trademark Office, 600
37 Dulany Street, Alexandria, Virginia, before Kevin E. Carr, Notary Public.

PROCEEDINGS

THE CLERK: Good morning. Calendar No. 59, Mr. Beckers.

JUDGE CRAWFORD: Good morning.

MR. BECKERS: Good morning, Your Honors.

JUDGE CRAWFORD: You can begin as soon as you're set up and
:

MR. BECKERS: Thank you.

Your Honors, as set forth in Claim 1, this invention is directed to a message processing apparatus that includes a message generation unit, that generates a message that is sent to a worker.

Now this message of critical importance has in it a blank space. That space is there to allow the worker to make an offer, a date, an offer as to when a job that has been assigned to a group of workers, to which receiver is part of, to make a counter-offer back to the manager, initially the manager, as to a date in which that job, which has been named, will be completed.

And that message is transmitted by an acquisition transmitting unit transmits that message to the receiver or worker. Then this message is received back by that acquisition unit.

And then a control unit causes the offer date that's received back in blank space to be displayed, along with the decision result, about that

Now the Examiner admitted in the Final Office Action that the Oliver reference did not include such a message generation unit, and turned to the aka reference to argue that it taught a message generation unit.

1 The Examiner particularly pointed out column 2, lines 20-25, of
2 Nakoaka. This message text particularly says, specifically to each user,
3 there is a task entry list, having works that should be executed by the user
4 from tasks that the work flow system should support.

5 Therefore, the user can avoid such an accident that the user forgets the
6 user's own work.

7 This is not a message generation unit, Your Honors. This is merely a
8 list of tasks that the user is supposed to perform. And therefore, there is no
9 message blank space in the message, as called for in the claim, an entry
10 space for a completion date offer.

11 Nor does this address a display that displays those offers of
12 completion dates of the job. Nor is there a display of a decision result in this
13 part of the prior art.

14 The Examiner also compares the transmission of the message to
15 workers, where that message has that blank space, and a return of the
16 completed blank space message to the interrogation of the Oliver system.

17 The Oliver system is an earned value system that allows a person who
18 is tracking an ongoing project to determine how much of the earned value
19 has already been earned in a project.

20 And the Examiner compares that interrogation, the interrogation of the
21 Oliver system, which is about earned value, to these messages that get sent
22 to the workers, and responds back with this completed blank space, which
23 includes the offer as to the job completion data, okay? And I just can't see
24 that this system, this earned value system interrogation, is anything like the
25 transmission and reception of a message that includes an offer date for the
26 completion of a job. It just doesn't make sense to me, okay?

1 The Examiner also compares the display of the completion date
2 offers, which is, along with the decision result about those offers, the
3 decision result being as the specification says, accepted or rejected as to that
4 particular date offer for the completion of the job.

5 The Examiner compares that to the display of the earned value
6 information that is displayed in Oliver. Now this earned value information
7 that is displayed in Oliver is a graph that shows how -- along the project,
8 how much the earned value is, relative to the time of the length of the
9 project.

10 If you're into the project 30 weeks, it shows the earned value for 30
11 weeks. If you're into the project for 100 weeks, it shows that value.

12 I see no correlation at all with respect to displaying an offer date for
13 the completion of a job, and the decision result about that job with this
14 display of a graph. There just doesn't seem to be any comparison, no
15 equivalence whatsoever.

16 And that's what's in Claim 1.

17 Claim 22 goes further, okay? It says that the message generation unit
18 also transmits a message that includes a completed date stated in the
19 message, a date by which -- in the claim it's called "In place of the
20 completion date". "A completion date each receiver desires to agree in place
21 of the completion date stated in the message."

22 The message has essentially a target date in it. The message that's
23 sent to the workers has a target date in it for when the job needs to be
24 completed.

25 And essentially the workers can override that, okay? And so in Claim
26 22, there is also a control unit that causes a terminal to display in a table

1 form, okay, the title of the message -- the original message sent to the
2 worker or the receiver, okay; the names of the plurality of the receivers, the
3 names of all the people that actually receive this message about this job task,
4 okay; and the completion dates that were entered into the entry spaces
5 attached to the message by the plurality of the receivers, or job -- the
6 workers, okay, respectively, with a decision result with respect to the
7 completion date offers of the receivers or workers.

8 Now the Examiner tries to compare this, essentially, ability to
9 override a suggested completion date with a display of the earned value in
10 Oliver.

11 And again, I don't see any display of earned value having any
12 correlation or equivalence to a message that has a suggested target date for
13 the completion of a job.

14 An earned value graph, it seems to me, is nothing like a message that
15 has a target date in it, okay?

16 And the Examiner also takes this table, which the claim calls for, and
17 tries to compare that table. That table includes the message title. Again, the
18 worker or receiver's names, who have been asked to complete the job; the
19 job completion date offers or the dates upon which the workers have said
20 they will complete the jobs; and the decision result about those offers.

21 And the Examiner compares that again with the earned value graph in
22 Oliver, and with some other information such as cost variance and other
23 stuff that can also be provided.

24 And again, I just don't see a correlation between a table, okay, that
25 shows names of workers, the dates when they've offered to complete the job,
26 and the decision result with respect to those offered completion dates.

1 I don't see a correlation whatsoever.

2 Now dependent Claim 29, okay, calls for receiving a completion date
3 reply. And then it calls for displaying a ratio.

4 Now this is a very particular ratio, okay? It's a ratio of persons who
5 have received the message, and completed the assigned parts of the job, to
6 all the persons who have received the message and have been assigned parts
7 of the job.

8 So it's a ratio of people who have received the message, and
9 completed the job, to the people who have received the message, okay?

10 And this is a very, very particular ratio. And the Examiner compares
11 this ratio that we've got to the percent complete described in Oliver, which is
12 a comparison or a percent complete, which is the actual earned value to a
13 baseline earned value.

14 Now again, we're comparing two graphs; if you look at the figures in
15 Oliver, there's a graph of the baseline for the earned value, and then there's a
16 graph of the actual earned value.

17 And this is -- trying to compare earned value to earned value in a
18 percent complete. That just doesn't seem to me to be anything like a ratio of
19 people who have been sent the received message and completed the job to
20 the people who have received the message and been assigned the job. It just
21 seems, you know, not comparable, okay?

22 Now dependent Claim 4, okay, dependent Claim 4 calls for the
23 message to contain a job completion button, okay? And then it also calls for
24 counting the number of -- "button completions" it's called, and then
25 displaying the ratio.

1 The Examiner points to Oliver at column 8, lines 21 to 29, and in this
2 text again Oliver discusses earned value related information, and says
3 nothing about a button and counting buttons.

4 Again, I see no correlation to what is being argued by the Examiner.

5 Moving on to Dependent Claim 6. Dependent Claim 6 calls for a
6 mandatory display of the ratio. I didn't see the Examiner argue against that
7 at all. I mean, the Examiner waved her hands, it seemed, at this argument,
8 and didn't respond directly to it.

9 And I see nothing in Oliver or Nakoaka that calls for the mandatory
10 display of a ratio.

11 Dependent Claim 7. It calls for displaying the ratio when, one, if a
12 specific date is reached, or the ratio reaches a pre-assigned value. Again,
13 there doesn't seem to be anything in Oliver or Nakoaka with respect to this.
14 The Examiner does try to point to Oliver for this.

15 In dependent Claim 8, dependent Claim 8 calls for the display of the
16 ratio on a very specific date, a specific day. And again, Oliver and Nakoaka
17 say nothing about this.

18 So to sum up, I think we've got a situation where: we send a message
19 to a worker. The message asks the worker to complete a blank space in the
20 message that is an offer to complete a particular job.

21 That message is transmitted back to a control unit. That control unit
22 then displays those completion date offers, and the decision result, accepted
23 or rejected, about those completion date offers.

24 And we just don't see Oliver or Nakoaka having any relevance at all to
25 this.

26 Any question?

1 JUDGE CRAWFORD: Questions?

2 (No response.)

3 MR. BECKERS: Okay.

4 JUDGE CRAWFORD: Thank you.

5 MR. BECKERS: Thank you very much.

6 (Whereupon, at 10:20 a.m., the proceedings were concluded.)